

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

Joseph F. Hutchison, et al.,)
)
 Plaintiffs,) Case No. 1:01-CV-789
)
 vs.)
)
Fifth Third Bancorp,)
)
 Defendant.)

O R D E R

This matter is before the Court on Defendant Fifth Third Bancorp's motion for a bill of costs (Doc. No. 93) and motion for attorney's fees (Doc. No. 94).

On October 7, 2005, the Court granted Defendant Fifth Third Bancorp's motion for summary judgment on Plaintiffs' ERISA breach of fiduciary duty claims. Doc. No. 91. On October 21, 2005, pursuant to Rule 54 of the Federal Rules of Civil Procedure and 29 U.S.C. § 1132(g), Fifth Third filed the instant motions for costs and attorney's fees. On October 25, 2005, Plaintiffs filed a notice of appeal from the judgment of the Court. Doc. No. 96.

Under Rule 54, the district court may defer ruling on bills of costs and motions for attorney's fees until after any appeal on the merits is resolved. The court also has the option of denying such motions without prejudice until the appeal is resolved. See Fed. R. Civ. P. 54, Advisory Committee Notes to

1993 Amendments; Quigley v. Rosenthal, 427 F.3d 1232, 1237 (10th Cir. 2005).

The Court finds that judicial economy would be fostered by reserving ruling on Fifth Third's motions until Plaintiffs' appeal is concluded. Accordingly, Fifth Third's motion for a bill of costs and motion for attorney's fees are **DENIED WITHOUT PREJUDICE**. Fifth Third may renew or refile these motions within fourteen (14) days of the issuance of the mandate by the Court of Appeals.

IT IS SO ORDERED

Date January 18, 2006

s/Sandra S. Beckwith
Sandra S. Beckwith, Chief Judge
United States District Court